

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
SOUTHERN DIVISION

DIANA THORNTON,

Plaintiff,

v

WALMART STORES, INC., a
Foreign Profit Corporation,
WAL-MART STORES, EAST,
LIMITED PARTNERSHIP, a
Foreign Limited Partnership,
WAL-MART ASSOCIATES, INC.,
A Foreign Profit Corporation,

Defendants.

USDC Case No.

Hon:

Case No.: 21-005341-NO

Hon.: Patricia Perez Fresard

BRIAN L. FANTICH (P60935)
CARRA J. STOLLER (P64540)
ADAM J. GANTZ (P58558)
LAW OFFICE OF KELMAN & FANTICH
Attorneys for Plaintiff
30903 Northwestern Highway
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(248) 855-0100
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RICHARD G. SZYMCZAK (P29230)
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Attorney for Defendant
38505 Woodward Avenue, Suite 100
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(810) 342-7007 | Fax: (248) 901-4040
rszymczak@plunkettcooney.com

NOTICE OF FILING REMOVAL

NOTICE OF REMOVAL TO FEDERAL COURT

VERIFICATION

CERTIFICATE OF SERVICE

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**

Richard G. Szymczak (P29230)

Attorney for Defendants

38505 Woodward Avenue, Suite 100

Bloomfield Hills, MI 48304

(810) 342-7007

Dated: June 14, 2021

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DIANA THORNTON,

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NOTICE OF FILING REMOVAL

TO: Brian L. Fantich (P60935)
Law Offices of Kelman & Fantich
30903 Northwestern Hwy, Suite 270
Farmington Hills, MI 48334

Wayne County Circuit Court
Clerk of the Court
2 Woodward Avenue
Detroit, MI 48226

PLEASE TAKE NOTICE that this Defendant, Wal-Mart Stores East, LP, a Foreign Limited Partnership, misidentified as Walmart Stores, Inc. and Wal-Mart Associates, Inc., has this day filed a Notice of Removal, a copy of which is attached hereto, in the office of the Clerk of the United States District Court, Eastern District of Michigan, Southern Division.

PLUNKETT COONEY

By: /s/*Richard G. Szymczak*
Richard G. Szymczak (P29230)
Attorney for Defendant
38505 Woodward Avenue, Suite 100
Bloomfield Hills, MI 48304
(810) 342-7007

Dated: June 14, 2021

PROOF OF SERVICE

The undersigned certifies that on the 14th day of June 2021, a copy of the foregoing document was served upon the attorney(s) of record in this matter at their stated business address as disclosed by the records herein via:

<input type="checkbox"/> Hand delivery	<input type="checkbox"/> Overnight mail
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Facsimile
<input type="checkbox"/> Email	<input checked="" type="checkbox"/> Electronic e-file

I declare under the penalty of perjury that the foregoing statement is true to the best of my information, knowledge and belief.

/s/*Della Dubovsky*

Della Dubovsky

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
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LIMITED PARTNERSHIP, a
Foreign Limited Partnership,
WAL-MART ASSOCIATES, INC.,
A Foreign Profit Corporation,

Defendants.

USDC Case No. 21-CV-11390

Hon:

Case No.: 21-005341-NO

Hon.: Patricia Perez Fresard

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NOTICE OF REMOVAL TO FEDERAL COURT

TO: Clerk of the Court
Brian L. Fantich, Esq.

DEFENDANT, WAL-MART STORES EAST, LP, a Foreign Limited Partnership, misidentified as Walmart Stores, Inc. and Wal-Mart Associates, Inc., (“WM”) submits this Notice of Removal

1. On or about April 28, 2021, Plaintiff filed a civil action in the Wayne County Circuit Court, State of Michigan, bearing Case No. 21-005341-NO, in which Diana Thornton is the Plaintiff and WM is the Defendant. A copy of the Complaint filed in the Wayne County Circuit Court is attached to this Notice of Removal as **Exhibit A**.

2. This action, as alleged in the Complaint, is a suit brought by Plaintiff against WM for negligence and premises liability.

3. This action is between citizens of different states. The Plaintiff is a resident of the County of Wayne, State of Michigan (see Paragraph 1 of **Exhibit A**). WM is a Delaware limited partnership whose members are WSE Management, LLC and WSE Investment LLC, both of which are Delaware limited liability companies based in Arkansas). The sole member of both WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, which is an Arkansas limited liability company with its principal place of business in Bentonville, Arkansas. The sole member of Wal-Mart Stores East LLC is Wal-Mart Inc., formerly Wal-Mart Stores, Inc., a Delaware corporation with its principal place of business in Bentonville, Arkansas.

4. WM is not a corporation created or organized under the laws of the State of Michigan, is not domiciled in Michigan and does not have its principal place of business in the State of Michigan.

5. The action filed by Plaintiff against WM is one involving complete diversity of citizenship under 28 U.S.C. § 1332 as a civil action between citizens of the State of Michigan and the State of Delaware.

6. The alleged date of incident is June 23, 2018.

7. WM asserts it is more likely than not that the amount in controversy sought by Plaintiff exceeds the jurisdictional requirements of 28 U.S.C. § 1332(a) because Plaintiff specifically alleges total damages “in excess of \$25,000.00” as Plaintiff has declined to cap her damages. below the jurisdictional limit.

8. Plaintiff's Complaint sets forth allegations that she suffered:

- a. Severe injuries to her right knee resulting in a torn meniscus; altered gain; permanent limp, inability to ambulate, permanent scarring; diminished extension, flexion, and range of motion; injuries to left lower arm; injuries to her head, neck, back, and spine; severe injuries to her upper and lower extremities; decrease in gross and fine motor skills; severe shock, as well as physical pain and suffering;
- b. The requirement of intense therapy for injuries which are permanent in nature;
- c. Severe humiliation and embarrassment, which is of an ongoing and permanent nature;

- d. Loss of full ability to perform the normal vocational and avocational activities of life, and which prevent Plaintiff from participating in recreational activities, which loss is permanent;
- e. Past, present and future hospital, medical, and pharmaceutical bills for treatment and medication;
- f. Severe, frequent and persistent pain which is of a continuing and permanent nature.

9. This Notice of Removal is timely filed within thirty (30) days after the Complaint was filed and served upon WM, as the Complaint was served on May 19, 2021.

10. A written notice of the filing of this Notice of Removal has been given to all parties as required by law, and a proof of service is attached hereto as **Exhibit B**.

11. A written notice of this Removal has been filed with the Clerk of the Court for the Wayne County Circuit Court, State of Michigan, as provided by law.

12. Based upon the foregoing, WM is entitled to removal of this action to the United States District Court for the Eastern District of Michigan, under 28 U.S.C. § 1441, *et seq.*

WHEREFORE, Defendant, WM, respectfully requests that it be allowed to effect removal of the within action from the 3rd Circuit Court for the County of

Wayne, State of Michigan, to the United States District Court for the Eastern District of Michigan.

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**
Richard G. Szymczak (P29230)
Attorney for Defendants
38505 Woodward Avenue, Suite 100
Bloomfield Hills, MI 48304
(810) 342-7007

Dated: June 14, 2021

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VERIFICATION

RICHARD G SZYMCZAK, first being duly sworn, states that he is the attorney for Defendant and that the foregoing Notice of Removal is true in substance and in fact to the best of his knowledge, information, and belief.

Respectfully submitted,

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**

Richard G. Szymczak (P29230)

Attorney for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2021, I electronically filed ***Defendant's Notice of Filing Removal, Notice of Removal to Federal Court, Verification, and Certificate of Service*** with the Clerk of the Court using the ECF system, or in the alternative, I have mailed by United States Postal Service to any parties that are not ECF participants.

Respectfully submitted,

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**

Richard G. Szymczak (P29230)
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38505 Woodward Avenue, Suite 100
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